

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of )

Applications of WorldCom, Inc. and )  
MCI Communications Corporation for )  
Transfer of Control of )  
MCI Communications Corporation to )  
to WorldCom, Inc. )

CC Docket No. 97-211

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REQUEST TO INSPECT PROTECTED  
INFORMATION AND REQUEST FOR INFORMATION  
UNDER FREEDOM OF INFORMATION ACT

The Communications Workers of America, AFL-CIO (hereinafter "CWA") hereby requests authorization to inspect any materials not routinely available for public inspection which have been or may be filed in the above-captioned proceeding. This request is made pursuant to Section 0.461 of the Federal Communication Commission's ("FCC" or "Commission" herein) Rules and includes any documents that may be obtained by the FCC from the Department of Justice or submitted by the Applicants, WorldCom, Inc. and MCI Communications Corporation ("WorldCom/MCI" herein), pursuant to the pre-merger review process under the Hart-Scott-Rodino amendment to the Clayton Act, 15 U.S.C. Section 18a.

In the past, the Commission has treated documents filed with the Department of Justice under Hart-Scott-Rodino as protected materials. *AT&T and Craig O. McCaw*<sup>1</sup> However, based

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<sup>1</sup> File No. ENF-93-44, Protective Order at ¶ 1 (May 13, 1994).

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on Commission precedent in such cases as *Bell Atlantic Corp. and NYNEX*<sup>2</sup>, the Commission is required to review these materials and make them available to parties of record to permit analysis and review.

In *Bell Atlantic/NYNEX* and in *AT&T and Craig O. McCaw*, the Commission required that non-public materials submitted under Hart-Scott-Rodino by the applicants be made available for review by other parties in an attempt to develop a more complete record upon which to analyze the impact of the merger.<sup>3</sup> Even over the applicants' objections in *Bell Atlantic/NYNEX*, the Commission permitted review of the non-public documents based on the lack of data publicly available to allow interested parties to become informed about the impact of the proposed mergers. Moreover, under FCC Rules, all the interested parties need do to otherwise obtain this information is to make a persuasive showing regarding the reasons such inspection is necessary. 47 C.F.R. § 0.457(d)(1).

In this application, the basis for permitting review of the Hart-Scott-Rodino documents applies with equal force as in the *Bell Atlantic/NYNEX* and the *AT&T and Craig O. McCaw* cases. There is a dearth of information available in the public domain concerning the potential effects of the proposed merger. More significant still, the Applicants have provided exceedingly little in the way of descriptive records regarding the impact of the proposed merger on various market segments. Absent the ability to review materials submitted by the Applicants under Hart-Scott-Rodino concerning the Applicants' market participants and potential competitors, CWA

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<sup>2</sup> Applications of NYNEX Corp. And Bell Atlantic Corp. For Consent to Transfer Control, File No. NSD-L-96-10, Memorandum Report and Order, FCC 97-286 (rel. August 14, 1997)(“Bell Atlantic/NYNEX Order” herein).

<sup>3</sup> See also, *SBC Communications, Inc. v. FCC*, 56 F3d 1484, 1489 (D.C. Cir. 1995).

will be unable to address effectively and knowledgeably the many market concerns raised by the proposed merger. As the Commission has aptly stated previously: public participation in Commission proceedings cannot be effective unless meaningful information is made available to the interested persons."<sup>4</sup>

The Applicant's evidentiary submissions have been sparse, at best, and require resort to additional avenues of information especially regarding effects on the Internet backbone, plans to build out or reduce local exchange competition, and any impact the merger will have on employment within the affected industries. Little, if any, of this data has been provided by the Applicants, despite the Commission's requirements in the application process itself. As a result, interested parties, such as CWA, have few options to obtain this data except by seeking review of materials produced under Hart-Scott-Rodino.

Clearly, if the Commission is required to review these materials, and may act upon the data contained in these non-public documents, especially in the absence of other, more substantive submissions by the Applicants, then it must also be clear that interested parties must be given access to these materials. It is only in this way that the parties can provide further analysis and insight to the claims and goals asserted by the Applicants. Because the Commission may rely on these materials in determining, for example, the "relevant market participants,"<sup>5</sup> the impact of the merger in general, or other matters, it is essential that CWA gain access to this data, in order to ensure the integrity of the data upon which the FCC may make a decision and also to provide third party analysis of the materials.

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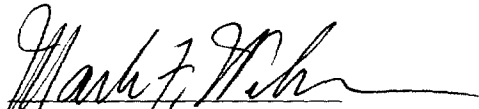
<sup>4</sup> Examination of Current Policy Concerning Treatment of Confidential Information Submitted to the Commission, 11 FCC Rcd 12406, 12422 (1996)(NPRM).

<sup>5</sup> See, e.g., Bell A

For the foregoing reasons, CWA respectfully requests that the Commission enter an order granting CWA the right to have access to and review of any non-public documents in its possession which the Applicants have or may submit pursuant to Hart-Scott-Rodino.

Respectfully submitted,

COMMUNICATIONS WORKERS  
OF AMERICA, AFL-CIO, CLC

A handwritten signature in black ink, appearing to read "Mark F. Wilson", with a long horizontal flourish extending to the right.

Mark F. Wilson, Esq.  
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Dated April 8, 1998

## CERTIFICATE OF SERVICE

I hereby certify that on this 8<sup>th</sup> day of April 1998, I have served the following parties to this action, and others, with a copy of the foregoing Request for Non-public Documents, via first class mail, postage prepaid, at the following addresses:

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Mark F. Wilson